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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,614	05/11/2005	Jan Van Walraven	WALRAVEN4	7451
1444	7590	10/18/2006	EXAMINER	
BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				THOMAS, DAVID B
ART UNIT		PAPER NUMBER		
		3723		

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/534,614	VAN WALRAVEN, JAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	David B. Thomas	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 September 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18,20-34,37,38 and 40-44 is/are pending in the application.
  - 4a) Of the above claim(s) 20-34,37,38,43 and 44 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 and 40-42 is/are rejected.
- 7) Claim(s) 2-18 and 40-42 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 May 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                        |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/11/05</u> . | 6) <input type="checkbox"/> Other: _____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I in the reply filed on 7 September 2006 is acknowledged. The traversal is on the ground(s) that under PCT Rules 13.1 and 13.2, the International Searching Authority found only two groups. The examiner has reconsidered the grounds of restriction and is therefore regrouping the claims. Group I, including claims 1-18 and 40-42, is hereby considered for examination purposes.

2. Claims 20-34, 37, 38, and 43-44 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventive concept, there being no allowable generic or linking claim.

### ***Claim Objections***

3. Claims 2-18 and 40-42 are objected to because of the following informalities: The preamble of each of said claims fails to include the appropriate article, i.e. "An assembly tool..., The assembly tool according to claim 1,..., A method..., A package..." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17, 40 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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6. The preamble of claim 1 suggests that the body of the claim will be drawn to a tool, however, the first three clauses appear to be defining an environment for the intended use of a tool; and the final clause is merely a suggestion of a tool as no tool, or structural limitations to particularly describe a tool, have ever been positively recited. It is not until claim 4 that any positive limitations are recited. Other examples of vague, or indefinite, language may be found throughout the claims, e.g. "it is designed...can be applied..."

7. Furthermore, claim 1 is indefinite in that it appears the applicant is improperly claiming an apparatus with the work, thus rendering claim 1 and all that depend therefrom indefinite since they include the work as a positive element in combination with the apparatus. That is, the elongate profiled-section element and the elongate nut body and spring constitute the work that is manipulated by the alleged assembly tool, which is an apparatus. The elongate profiled-section element and the elongate nut body and spring form no part of the apparatus and should not be claimed in combination therewith. *Ex parte Rubsam*, 6 USPQ 64. A person may not patent a combination of a device and the material upon which the device works. Applicant cannot properly claim a combination of a device and material worked upon. *In re Hughes*, 1931 CD 500.

8. Claim 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. It appears that claim 1 has already suggested the combination of an elongate nut body and assembly tool.

9. Regarding claims 40 and 41, the language as written renders the claim indefinite,

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because it is unclear whether the claim, 40 and 41 respectively, is dependent or independent. If the claim is independent, e.g., "a package that includes a plurality of nut bodies and an assembly tool" the reference to "an assembly tool according to claim 1", renders the claims indefinite since the scope can not be ascertained, if it is a dependent claim, it fails to further limit the parent claim, i.e. the claim fails to provide additional language to limit the structural of the tool, or the nut bodies and the tool, or...

10. Therefore, having failed to comply with the first and/or second paragraph of 35 USC 112, claims 1-17, 40, and 41 will not be analyzed as to whether they are patentable over the prior art since to do so would of necessity require speculation with regard to the metes and bounds of the claimed subject matter.

#### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 18 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller (4,917,553) as being obvious in view of Kowalski (4,146,074) or Horst (FR2515753), each of whom teaching that it would be desirable to provide a tool for engaging and rotating the nut body within a profiled-section element.

#### ***Conclusion***

13. It appears that the applicant admits that the "securing system" is known, and as such, the invention relates to "an assembly tool" in one aspect of the disclosure, and

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that an object of the second aspect of the invention is to overcome the problem of the free end of the spring of the nut body/spring assembly becoming hooked behind edges of the holes of the profiled-section element. The applicant is, therefore, encouraged to submit claims directed to an assembly tool in order to be considered for examination.

14. The remaining prior art made of record but not relied upon, at this time, is considered pertinent to applicant's disclosure. Westlake, in particular, discloses a spring nut adapter for use in connection with a U-shaped channel. The adapter includes an adapter element 46 that is substantially square-shaped element with a dimension less than the width of the base plate of the channel. In order to allow easier lateral movement, the corners of the adapter element 46 may be beveled or rounded. Ellerson, in particular, discloses a wrench for recessed nuts. Amis, in particular, discloses that it is known to package a fastener, a washer, and a driving tool together, and Puchner teaches of a prearranged fastening element package.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (571) 272-4497. The examiner can normally be reached on Mon-Fri 8am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dbt



David B. Thomas  
Primary Examiner  
Art Unit 3723